

Serial No. 09/777,946

Docket No. 1232-4680

REMARKS

Claims 1, 10-12, 19-22, 27-38 are pending in this application. Claims 33, 34, 37 and 38 have been withdrawn by the Examiner as allegedly being drawn to a non-elected invention. Claims 1, 12, 21, 22, 31, 32, 35 and 36 are amended herein. Applicant submits that no new matter has been entered by way of this amendment.

Applicant respectfully requests reconsideration of the application in view of the foregoing amendments and the following remarks.

Election by Original Presentation

The Examiner has withdrawn claims 33, 34, 37 and 38 from prosecution, characterizing these claims as being drawn to a previously non-elected invention. Applicant respectfully traverses such characterization and the withdrawal of these claims and respectfully submits that these claims are properly presented and should be examined on the merits.

Claim Rejections – 35 U.S.C. § 102

Claims 1, 10-12, 19, 20-22, 31, 32, 35, and 36 have been rejected under 35 U.S.C. § 102(e), as allegedly being anticipated by Steinberg, et al., US Patent No. 6,151,073 ("Steinberg").

Applicant respectfully disagrees with the characterizations of the prior art and claims in the stated rejections and traverses the pending rejections and submits that the pending claims are patentably distinct from the cited reference at least for the following reasons.

Steinberg is directed to an intelligent flash system for a digital camera having an image optical pickup, an interface circuit, a flash unit and a processor. The processor samples image intensity data, weighing the center image area more heavily; creates a histogram plot of quantity of pixels versus intensity; and separates the plot into

Serial No. 09/777,946

Docket No. 1232-4680

a bar graph, from which an exposure value is determined. The histogram is then used to calculate a multiplicative scaling factor, which is used to multiply the first flash energy to correct the exposure. Conditions of extreme over and under exposure result in the activation of a second flash at an adjusted energy level. The image data of the second flash is then analyzed and the exposure compared with the result of the first flash, and a final determination of flash energy is then made based upon the results. (See Steinberg, Abstract).

Moreover, Steinberg teaches that in order to simplify analysis, sampling is used. For example, 1,000 pixels of 300,000 total pixels could be selected for analysis. (See Steinberg, col. 8, lines 19-75). Steinberg further teaches that a greater number of pixels may be sampled from a center area relative to edge areas of a picture, and that selective sampling gives greater weight to the lighting of the more important area of the image.

However, Steinberg does not disclose, teach, or suggest that a specified area is selected or excluded from plural areas on the basis of a distribution of a specified component of a histogram that is generated from an image signal. Independent claims 1, 12, 21, 22, 31, 32, 35 and 36 have been amended to clarify this feature of the claimed invention, regarding controlling a light emission operation on the basis of a luminance signal in selected areas of an image frame.

By way of example, amended independent claim 1 now recites, *inter alia*:

An apparatus...

wherein when a rate that a predetermined luminosity level occupies exceeds a reference point in a pattern of the calculated histogram, said control unit controls a light emission of an illumination device on the basis of luminance signals obtained by excluding luminance signals of predetermined luminance levels from the luminance signals.

Serial No. 09/777,946

Docket No. 1232-4680

Applicant submits that Steinberg does not teach or suggest the elements recited in amended independent claim 1. Independent claims 12, 21, 22, 31, 32, 35 and 36 are believed to define patentable subject matter for at least similar reasons. Further, dependent claims 10-11 and 19-20, which depend from independent claims 1 and 12, respectively, are believed to define patentable subject matter for at least similar reasons.

Thus, Applicants respectfully request withdrawal of the rejection applied to independent claims 1, 10-12, 19, 20, 31, 32, 35, and 36 under 35 U.S.C. § 102(e), as being anticipated by Steinberg.

Claim Rejections – 35 U.S.C. § 103

Claims 27-30 have been rejected under 35 U.S.C. § 103 (a), as allegedly being unpatentable over Steinberg in view of Heard, US Patent No. 4,671,655 ("Heard").

Claims 27-30 depend from independent claims 1, 12, 21 and 22 respectively, and are believed to define patentable subject matter for at least the same reasons as set forth above with regard to the independent claims.

Thus, Applicant respectfully requests withdrawal of the rejection applied to independent claims 27-30 under 35 U.S.C. § 103 (a) as being unpatentable over Steinberg in view of Heard.

While Applicant has not otherwise addressed the individual rejections of the dependent claims and traverses said rejections, Applicant reserves the right to address those individual rejections should such be necessary and appropriate.

Accordingly, Applicant respectfully submits that the present invention as claimed is neither anticipated by nor rendered obvious in view of any of the cited references (Steinberg and Heard) taken individually or in any combination.

Serial No. 09/777,946

Docket No. 1232-4680

CONCLUSION

In view of the foregoing, Applicants believes that the claims as herein presented are allowable over the cited art as they each recite at least the foregoing features which are not disclosed, taught nor suggested by the cited art, taken alone or in combination. Applicants respectfully submit that the rejections be withdrawn and further that application is in condition for allowance, which action is earnestly solicited.

In the event that a telephone conference would facilitate prosecution of the instant application, the Examiner is invited to contact the undersigned at the number provided.

No fees or extensions of time are believed necessary for the filing of this paper. However, should an extension of time be required to render this filing timely, such is hereby petitioned and the Commissioner is hereby authorized to charge any additional fees which may be required for the timely consideration of this Amendment, or credit any overpayment to Deposit Account No. 13-4500, Order No. 1232-4680.

Respectfully submitted,
MORGAN & FINNEGAN, L.L.P.

Dated: April 27, 2005

By:


Stephen D. Manetta
Registration No. 40,426

Mailing Address:
MORGAN & FINNEGAN, L.L.P.
3 World Financial Center
New York, New York 10281-2101
(212) 415-8700 Telephone
(212) 415-8701 Facsimile